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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/611,839	07/01/2003	David C. Roberts	025636-0105 5143		
26371	7590 08/30/2004		EXAM	EXAMINER	
FOLEY & L.	ARDNER SCONSIN AVENUE	BUSHEY, CHARLES S			
SUITE 3800	DCONDIN AVENCE	ART UNIT	PAPER NUMBER		
MILWAUKEE, WI 53202-5308			1724		

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edutations or time may be existed under the proteins of 37 CPR 1.136(s). In no event, however, may a reply be timely filed after 30 (b) MONTH'S from the mailing date of this communication. If NO protein or reply is specified under the proteins of 37 CPR 1.136(s). In no event, however, may a reply be timely filed. after 30 (c) MONTH'S from the mailing date of this communication. If NO protein or reply is specified under the proteins of 37 CPR 1.136(s). In no event, however, may a reply be timely filed on a statutory minimum of thirty (30) days will be considered frinely. If NO proteins of the reply is specified above, the maximum statutory protein of application to become ABANDONEO (38 U S. C. § 133). Any reply reviewed by the official above, the maximum statutory protein of application to be considered frinely. Provided the status of the status of the reply will be protein a status of the summunication, even if timely filed, may reduce any counterplants term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 03 December 2003. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-24 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 1-24 is/are allowed. 6) Claim(s) 1-24 is/are allowed. 6) Claim(s) 1-24 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application protein protein that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.121(d). 11) The oath or decl						
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be waited under the provision of 3 CFR 1.13(6). In no event, however, may a reply be timely fited after SIX (6) MCNT1S from the mailing date of this communication. SIX (6) MCNT1S from the mailing date of this communication. Failure is reply within the set or extended period for reply will, by sharing a way be well to going kit (6) MCNT1S from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by sharing, each will write kit (6) MCNT1S from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by sharing, each of the mailing date of this communication. Failure to reply within the set or extended period for reply will, by sharing, each of the mailing date of this communication. Failure to reply within the set or extended protein for the mailing date of this communication. Failure to reply within the set or extended protein for reply will, by sharing, each of the mailing date of this communication. Failure to reply within the set or extended protein for reply will, by sharing, each of the mailing date of this communication. Failure to reply within the set or extended protein for reply will, by sharing, each of the mailing date of this communication. The protein the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this communication. The protein term adjustment for the mailing date of this comm	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address			
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A) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152) Other:	 a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). 					
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Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-5, drawn to an evaporative cooling system, classified in class 261, subclass 29.
 - II. Claims 6-12, drawn to a kit, classified in class 165, subclass 57.
 - III. Claims 13-20, drawn to a process, classified in class 29, subclass 458.
 - IV. Claims 21-24, drawn to a housing, classified in class 428, subclass 582.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions II and I are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a kit for assembly a paint spray exhaust scrubber and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
- 3. Inventions III and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be

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made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make another and materially different product, such as an exhaust spray cooler without an evaporative pad.

- 4. Inventions IV and I are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as flanged sheets useful for fabricating a residential mailbox and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
- 5. Inventions III and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make another and materially different product, such as an exhaust spray cooler without an evaporative pad.
- 6. Inventions IV and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate

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product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as flanged sheets useful for fabricating a residential mailbox and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 7. Inventions III and IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process, such as a process which does not include a step of applying a corrosion resistant coating.
- 8. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (571) 272-1153. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey Primary Examiner Art Unit 1724

csb 8-26-04

9.26-04